

Persons engaged in the business of selling tangible personal property at retail are subject to the Retailers' Occupation Tax Act. 35 ILCS 120/2 (1998 State Bar Edition).

January 11, 2002

Dear Xxxxx:

This letter is in response to your telephone call to the Department of Revenue and follow-up letter. That letter was referred to the Legal Services Office for response. Your correspondence included coupons from AAA, a receipt for the sale of a pizza, and a brief note that appears to question the rate of tax you were charged, as well as the proper taxation of coupons. The nature of your inquiry requires that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See, 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (1998 State Bar Edition). The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 35 ILCS 105/3 (1998 State Bar Edition). These two taxes are complimentary in nature and together are commonly referred to as the "sales tax".

86 Ill. Adm. Code 130.2125(b)(1) explains the taxation of gross receipts in connection with discount coupons. When a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon for which the seller receives no reimbursement, the amount of the discount is not subject to Retailers' Occupation Tax liability. Conversely, if a retailer allows a purchaser a discount from the selling price on the basis of a coupon for which the retailer will receive full or partial reimbursement from any source, the retailer incurs Retailers' Occupation Tax liability on the receipts received from the purchaser and the amount of the coupon reimbursement. We reach this conclusion because the Retailers' Occupation Tax imposes tax on all gross receipts received from sales, regardless of the source of those gross receipts. While the issuer of the coupon, as a technical proposition, is the party incurring tax on the value of the coupon, it is generally the case that use of the coupon is conditioned upon the purchaser's payment of that tax. As a result, in this instance, tax is due on all receipts received by the retailer, including tax on the value of the coupon.

From the limited information presented, it appears that AAA Pizza is offering a discount coupon for which it receives no reimbursement. If this is the case, only receipts actually received by the retailer from the purchaser would be subject to tax. Tax is due at the rate applicable in your location. Based upon the information provided, we assume this is the rate for CITY, which is 6.50%. If this is the case, it would appear that the rate you are being charged is too high (you appear to have been charged 9.5%).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Shane McCreery

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